

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

H. MARC WATZMAN,)

Defendant.)

No. 03 CR 1032

Judge John F. Grady

FILED

AUG 20 2004

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

DOCKETED
AUG 23 2004

DEFENDANT'S MOTION FOR DISCLOSURE OF EXPERT TESTIMONY

Defendant, **H. MARC WATZMAN**, by and through his attorneys, **THOMAS ANTHONY DURKIN, PATRICK W. BLEGEN** and **JODI L. GARVEY**, pursuant to Rule 16(a)(1)(E) of the Federal Rules of Criminal Procedure, respectfully requests that the Court enter its order requiring the government to disclose to the defense a written summary of the testimony of any expert witnesses that the government intends to use under Rules 702, 703 or 705 of the Federal Rules of Evidence during its case-in-chief at trial.

While Rule 16 does not set any specific timing requirements for the disclosure of information under this provision, according to the Amendment notes, it is expected that the parties will make their requests and disclosures in a timely fashion prior to trial. *See*, Rule 16, Advisory Committee Notes, 1993 Amendment (West 2002).

Under the facts and circumstances of this case, including that the government may seek to rely on expert testimony to establish that real children were used in the production of the images charged in the indictment, Defendant submits that disclosure of information under this Rule is necessary at least forty-five (45) days prior to trial to minimize surprise, reduce the need for continuances, and to provide Defendant with a fair opportunity to test the merits of the expert's

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testimony, or to obtain their own expert. *See, United States v. Richmond*, 153 F.R.D. 7, 8 (D.Mass. 1994); *United States v. Palermo*, 2001 WL 185132 (S.D.N.Y. 2001). Defendant, therefore, requests that this Court enter its order requiring the government to comply with Rule 16(a)(1)(E) at least forty-five (45) days prior to trial, and hereby makes this formal demand so as to insure that his rights in this regard are protected.

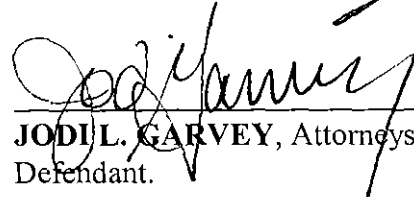
Respectfully submitted,



THOMAS ANTHONY DURKIN,



PATRICK W. BLEGEN,



JODI L. GARVEY, Attorneys for
Defendant.

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